
(2021) 11 BOM CK 0031

In the Bombay High Court

Case No : Criminal Miscellaneous Application (Bail) Nos.748, 749 Of 2021

Ketan Kanakia And Others

APPELLANT

Vs

State Of Goa

RESPONDENT

Date of Decision : 03-11-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 384, 385, 420

Citation : (2021) 11 BOM CK 0031

Hon'ble Judges : Manish Pitale, J

Bench : Single Bench

Advocate : I. Agha, Valencia Fernande, S. G. Bhobe

Final Decision : Disposed Of

Judgement

Manish Pitale, J

1. In these applications, the Applicants have approached this Court projecting extreme urgency in the matter for the reason that both the Applicants apprehend arrest in connection with Crime no. 143/2021 registered at Koregaon Park Police Station, Pune, State of Maharashtra, for offences under Section 384, 385, 420 read with Sections 34 and 120-B of the Indian Penal Code (IPC).

2. Mr. I. Agha, the learned Counsel appearing for the Applicants, has relied on the Judgments and orders of this Court in the cases of N. K. Nayar & Ors. vs. State of Maharashtra & Ors. 1985 CRI. L.J. 1887, Shantanu Shivilal Muluk vs. The State of Maharashtra 2021 ALL MR (Cri) 1380 and Order dated 11.08.2021 passed by this Court in Cri. Writ Petition No. 581 of 2021 (Shrikant Gopilal Rathi & Ors. vs. State of Maharashtra & Ors.).

3. It is contended on behalf of the Applicants that they are seeking limited relief of protection till they approach the competent Court of jurisdiction for seeking anticipatory bail in connection with the aforesaid crime alleged against them. It is contended that these applications, in common parlance referred to as transit anticipatory bail applications deserve to be granted in the facts and

circumstances of the present case.

4. Insofar as Applicant in CRMAB No. 748 of 2021 is concerned, reliance is placed on a medical certificate issued by a Consultant Physician, dated 25.10.2021, certifying that since the Applicant is suffering from ailments, he has been advised rest till 24.11.2021. As regards the Applicant in CRMAB No. 749 of 2021 is concerned, it is submitted that the said Applicant will also require protection for brief period in order to facilitate his approaching the competent Court for seeking anticipatory bail.

5. Mr. S. G. Bhobe, the learned Public Prosecutor, has appeared on behalf of the Respondent-State. It is pointed out that since the FIR is registered at Pune in Maharashtra, really speaking, the Respondent- State would not have much to say in the matter. But, it is submitted that even if the limited relief sought by the Applicant is to be granted, appropriate conditions need to be imposed, including a condition that would ensure that the Applicants do not misuse the limited relief that may be granted by this Court.

6. A perusal of the Judgments and Orders, upon which the learned Counsel for the Applicants has placed reliance, show that limited relief of protection can be granted to the Applicants only to facilitate their approaching the competent Court of jurisdiction for seeking anticipatory bail. This Court is not going into the merits of the matter or the entitlement of the Applicants for grant of anticipatory bail in any manner. But, at the same time, since there is a possibility that the Applicants may be apprehended or arrested in connection with the said FIR if the Maharashtra Police take assistance of the local police in the State of Goa, it cannot be said that the apprehension is misplaced or imaginary.

7. Hence, in the facts and circumstances of the present case, the applications are conditionally allowed in the following terms :

(a) The applicants are granted protection from coercive action or arrest only for a period of three weeks from today provided,

(i) The Applicants during this period shall not leave the State of Goa except to travel to the State of Maharashtra for moving such applications before the competent Court of jurisdiction.

(ii) The Applicant shall inform the concerned Police Station i.e. the Koregaon Park Police Station, Maharashtra, about the Order passed today by this Court.

(iii) Needless to say, the Applicants shall not act in any manner that would be prejudicial to the investigation that may be carried out by the concerned Police Officers in respect of the aforesaid FIR.

8. Applications are disposed of in the above terms.